

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

August 13, 2013 at 9:32 A.M.

1. [13-26602](#)-B-13 DOUGLAS SAKAE
PLC-2

MOTION TO VALUE COLLATERAL OF
OPERATING ENGINEERS FCU
7-3-13 [[37](#)]

Tentative Ruling: The motion to value Operating Engineers Local Union #3 Federal Credit Union's collateral is continued to a final evidentiary hearing on _____, 2013 at _:00 /a.m./p.m. before the Honorable David E. Russell in courtroom 32.

On or before _____, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before _____, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value the Collateral of Operating Engineers Local Union #3 Federal Credit Union's. In addition to the tabs, the hearing exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [www.tabbies.com] - debtors' stock number 58093 and creditors' stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the hearing one additional and identical copy of the party's lodged binder(s) for use by the court - to remain at the witness stand during the receipt of testimony.

The court will issue a minute order.

2. [13-26602](#)-B-13 DOUGLAS SAKAE
PLC-1

MOTION TO CONFIRM PLAN
7-3-13 [[33](#)]

Tentative Ruling: The Operating Engineers Local Union #3 Federal Credit Union's opposition is overruled without prejudice. The trustee's opposition is sustained. The motion to confirm the plan filed July 3,

2013 (Dkt. 32) is denied.

The court will issue a minute order.

3. [13-26602](#)-B-13 DOUGLAS SAKAE COUNTER MOTION TO DISMISS CASE
PLC-1 7-23-13 [[49](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

4. [13-21004](#)-B-13 CARLA FRISBY MOTION TO CONFIRM PLAN
CA-2 6-26-13 [[37](#)]

Tentative Ruling: The trustee's opposition is sustained. The motion to confirm the plan filed June 26, 2013 (Dkt. 40) is denied.

The court will issue a minute order.

5. [13-21004](#)-B-13 CARLA FRISBY COUNTER MOTION TO DISMISS CASE
CA-2 7-23-13 [[52](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

6. [13-21004](#)-B-13 CARLA FRISBY
CA-3

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF CRODDY &
ASSOCIATES, P.C. FOR MICHAEL
DAVID CRODDY, DEBTOR'S
ATTORNEY(S), FEE: \$2,359.52,
EXPENSES: \$0.00.
7-21-13 [[47](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

7. [13-21004](#)-B-13 CARLA FRISBY
CA-3

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF CRODDY &
ASSOCIATES, P.C. FOR MICHAEL
DAVID CRODDY, DEBTOR'S
ATTORNEY(S), FEE: \$2,359.52,
EXPENSES: \$0.00.
7-21-13 [[42](#)]

Tentative Ruling: Due to the number of matters on this morning's calendars (81 matters), the court issues the following abbreviated tentative ruling.

The motion is removed from the calendar.

This motion is a duplicate of the motion filed as DCN CA-3, Docket No. 47.

The court issue a minute order.

8. [13-24704](#)-B-13 TIMOTHY/KERRI FULTON
SJJ-7

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
7-3-13 [[76](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$2,761.00 of Wells Fargo Bank's claim secured by a 2003 Honda Civic LX ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$2,761.00 on the date of the petition.

The court will issue a minute order.

9. [13-24704](#)-B-13 TIMOTHY/KERRI FULTON MOTION TO VALUE COLLATERAL OF
SJJ-8 SANTANDER CONSUMER USA
7-3-13 [[81](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$3,586.00 of Santander Consumer's claim secured by a 2003 Ford Exhibition XLT ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$3,586.00 on the date of the petition.

The court will issue a minute order.

10. [13-20207](#)-B-13 CORNELIA CATA CONTINUED MOTION TO CONFIRM
PGM-5 PLAN
5-2-13 [[89](#)]

Tentative Ruling: This matter is continued to September 24, 2013 at 9:32 a.m.

By order entered August 8, 2013, the court approved the stipulation filed by the parties on July 29, 2013 (Dkt. 135) to continue the matter.

11. [13-20207](#)-B-13 CORNELIA CATA MOTION TO RECONSIDER
LR-5 DETERMINATION OF OPPOSITION AS
JOINDER
7-30-13 [[141](#)]

Tentative Ruling: This is a improperly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

12. [13-27208](#)-B-13 GARY HARTLEY AND PAMELA OBJECTION TO CONFIRMATION OF
JPJ-1 SCHWENINGER HARTLEY PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[19](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 23, 2013, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

13. [09-20611](#)-B-13 DONALD/SHERI JOHNSON MOTION TO APPROVE LOAN
MET-4 MODIFICATION
7-11-13 [[61](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The debtors' motion for authority to incur new debt is granted on the terms set forth in the Loan Modification Proposal submitted as Exhibit A to the motion (Dkt. 64 at 2).

The court will issue a minute order.

14. [10-46415](#)-B-13 DANIEL/LOIDA HYMAN MOTION TO APPROVE LOAN
JDM-7 MODIFICATION
7-10-13 [[84](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The debtor's motion for authority to incur new debt is granted on the terms set forth in the Home Affordable Modification Agreement submitted as Exhibit A to the motion (Dkt. 87 at 2).

The court will issue a minute order.

15. [12-20015](#)-B-13 ROBERT/VERONICA WARDLOW MOTION TO APPROVE LOAN
MET-2 MODIFICATION
7-12-13 [[40](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The debtors' motion for authority to incur new debt is granted on the terms set forth in the Loan Modification Agreement submitted as Exhibit A to the motion (Dkt. 43 at 2).

The court will issue a minute order.

16. [13-26315](#)-B-13 JOSE/MARIA CRUZ MOTION TO VALUE COLLATERAL OF
TOG-3 NATIONSTAR BANK, LLC
7-2-13 [[31](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Nationstar Bank's claim secured by the second deed of trust on real property located at 572 Hughes Avenue, Yuba City, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$117,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Nationstar Bank with a balance of approximately \$211,000.00. Thus, the value of the collateral available to Nationstar Bank on its second deed of trust is \$0.00.

The court will issue a minute order.

17. [10-43517](#)-B-13 MATTHEW HORTON
SDH-2

MOTION TO MODIFY PLAN
6-28-13 [[40](#)]

Tentative Ruling: The trustee's opposition is overruled. The motion is granted, and the modified plan filed June 28, 2018 (Dkt. 43) is confirmed with the following modifications: (1) The total paid into the plan through June 2013 is \$41,563.00; (2) The plan duration shall be 32 months.

The tentative ruling will not become the court's ruling on this matter unless the debtor (1) appears at the hearing (personally or through counsel) and accepts the tentative ruling, or (2) authorizes the trustee to represent to the court that the debtor accepts the tentative ruling.

The court will issue a minute order.

18. [12-39019](#)-B-13 APRIL HOLLY
SDB-3

MOTION TO CONFIRM PLAN
6-11-13 [[96](#)]

Tentative Ruling: The creditor Union Bank's opposition is sustained. The trustee's opposition is sustained. The motion to confirm the plan filed June 11, 2013 (Dkt. 97) is denied. Union Bank's countermotion to dismiss this case is denied.

Union Bank's countermotion seeks to dismiss this case for lack of good faith. A lack of good faith constitutes "cause" to convert or dismiss a chapter 13 case. Eisen v. Curry (In re Eisen), 14 F.3d 469, 470 (9th Cir.1994) (per curiam); Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 919 (9th Cir. BAP 2011). "To determine bad faith a bankruptcy judge must review the 'totality of the circumstances.' A judge should ask whether the debtor 'misrepresented facts in his [petition or] plan, unfairly manipulated the Bankruptcy Code, or otherwise [filed] his Chapter 13 [petition or] plan in an inequitable manner.'" In re Eisen, 14 F.3d at 470; see also Fidelity & Casualty Co. of New York v. Warren (In re Warren), 89 B.R. 87, 93 (9th Cir. BAP 1988) *citing* Goeb v. Heid (In re Goeb), 675 F.2d 1386, 1389-90 (9th Cir.1982). Here, Union Bank has failed to cite or analyze the factors applicable to the bad faith analysis. Accordingly, the countermotion is denied.

The court will issue a minute order.

19. [12-39019](#)-B-13 APRIL HOLLY
SDB-3

COUNTER MOTION TO DISMISS CASE
7-23-13 [[112](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

20. [13-23221](#)-B-13 ERIC ALSTRAND AND DEBRA
JGD-2 BRIOZA

CONTINUED MOTION TO CONFIRM
PLAN
6-4-13 [[36](#)]

Tentative Ruling: The creditor U.S. Bank National Association's opposition is sustained. The motion to confirm the plan filed June 4, 2013 (Dkt. 39) is denied.

The court will issue a minute order.

21. [13-27721](#)-B-13 KEVIN/KRISTIN HIGHBAUGH
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON, CHAPTER
13 TRUSTEE AND/OR MOTION TO
DISMISS CASE
7-25-13 [[24](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection is sustained. Confirmation of the plan filed June 19, 2013 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 27, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

22. [11-26424](#)-B-13 AGUSTIN ALONSO
MMG-2

CONTINUED MOTION TO MODIFY PLAN
6-25-13 [[54](#)]

Disposition Without Oral Argument: The motion is unopposed. The court issues the following abbreviated ruling.

The motion to confirm the modified plan filed on June 25, 2013 (Dkt. 53) is denied without prejudice.

This matter was continued to allow the debtor to file a proof of service. The debtor stated at the hearing on July 30, 2013 at 09:32 a.m. that the debtor served the motion, modified plan, and all related papers on all creditors at the time the motion was filed with the court. No proof of service has been filed. Accordingly, the motion is denied without prejudice because the debtor failed to serve the motion and its supporting papers on all creditors. Fed. R. Bankr. P. 3015(g) and LBR 3015(d) (2).

The court will issue a minute order.

23. [13-26326](#)-B-13 KEVIN/LATASHA NORMAN
MJH-1

MOTION TO CONFIRM PLAN
6-21-13 [[15](#)]

Tentative Ruling: The trustee's opposition is sustained. The motion to confirm the plan filed April 14, 2010 is denied.

The debtors appear to misunderstand the effect of a § 1325(b) (1) objection. When such an objection is made, the plan can only be confirmed if (A) the unsecured creditors are paid in full, or (B) all of the debtors' projected disposable income to be received in the applicable commitment period will be applied to make payments to unsecured creditors under the plan. 11 U.S.C. § 1325(b) (1) (A) & (B). This is a 0% plan.

The court will issue a minute order.

24. [11-24028](#)-B-13 KATHLEEN WALTON
ADR-2

MOTION TO MODIFY PLAN
6-28-13 [[29](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed June 28, 2013 (Dkt. 32) is confirmed.

The court will issue a minute order.

25. [12-38628](#)-B-13 LORETTA GOOLSBY
MDL-4

MOTION TO CONFIRM PLAN
6-24-13 [[67](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed June 24, 2013 (Dkt. 66) will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

26. [13-27730](#)-B-13 ROBERT/DENISE ROSSI
WW-2

MOTION TO VALUE COLLATERAL OF
HSBC FINANCE CORPORATION
7-5-13 [[28](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of HSBC Finance Corporation's claim secured by the second deed of trust on real property located at 806 Linwood Street, Vacaville, CA 95688 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$285,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Bank of America with a balance of approximately \$324,823.00. Thus, the value of the collateral available to HSBC Finance Corporation on its second deed of trust is \$0.00.

The court will issue a minute order.

27. [13-28130](#)-B-13 MICHAEL WARD
CAH-2

MOTION TO VALUE COLLATERAL OF
ALLY FINANCIAL, INC.
7-15-13 [[22](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Ally Financial's claim secured by the second deed of trust on real property located at 4245 United Court, North Highlands, CA 95660 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$140,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Bank of America

with a balance of approximately \$314,422.99. Thus, the value of the collateral available to Ally Financial on its second deed of trust is \$0.00.

The court will issue a minute order.

28. [10-44131](#)-B-13 RAPHAEL METZGER AND MOTION TO COMPROMISE
LDD-12 MELANIE MEDINA-METZGER CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT
7-30-13 [[109](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

29. [10-44131](#)-B-13 RAPHAEL METZGER AND MOTION TO INCUR DEBT
LDD-8 MELANIE MEDINA-METZGER 7-17-13 [[88](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

30. [12-38432](#)-B-13 JOHN/NATALIE PICOTTE MOTION TO CONFIRM PLAN
DMB-8 7-1-13 [[123](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The motion to confirm the amended plan filed July 1, 2013 (Dkt. 122) and the trustee's objections are dismissed.

The motion to confirm the amended plan filed July 1, 2013 and the trustee's objections are moot. On August 5, 2013, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan that is the subject of this motion. 11 U.S.C. § 1323(b).

The court will issue a minute order.

31. [13-27034](#)-B-13 NANCY LOPEZ OBJECTION TO CONFIRMATION OF
JPJ-1 PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[21](#)]

Tentative Ruling: The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the plan filed June 4, 2013 is denied. The trustee's motion to dismiss is conditionally

denied, the conditions being that on or before August 27, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

32. [10-27037](#)-B-13 TANYA STILLWELL-BISHOP MOTION TO MODIFY PLAN
PGM-2 6-28-13 [[55](#)]

Tentative Ruling: The trustee's opposition is sustained. The motion to confirm the modified plan filed June 28, 2013 (Dkt. 59) is denied.

The court will issue a minute order.

33. [12-28938](#)-B-13 JOSE AMAYA AND NORA CONTINUED OBJECTION TO NOTICE
BLG-3 SEGOVIA OF POSTPETITION MORTGAGE FEES,
EXPENSES, AND CHARGES
5-16-13 [[39](#)]

Tentative Ruling: This matter continued from July 16, 2013 with a briefing schedule. The creditor Wells Fargo Bank's ("WFB") supplemental opposition was due July 30, 2013. Replies, if any, were due August 6, 2013. WFB filed a timely written supplemental opposition, and the debtors filed a timely written reply. The court issues the following tentative ruling.

WFB's supplemental opposition is sustained to the extent set forth herein. The debtors' objection is dismissed.

The court construes the debtors' objection filed May 15, 2013 (Dkt. 39) as a motion brought pursuant to Fed. R. Bankr. P. 3002.1(e). That motion is dismissed. Pursuant to Fed. R. Bankr. P. 3002.1(e), the debtors may file a motion for a determination of whether payment of any claimed fee, expense, or charge "is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with § 1322(b)(5) of the Code." The debtors' object to the postpetition charge of \$425.00 for "bankruptcy/proof of claim fees" listed on the Notice of Postpetition Mortgage Fees, Expenses, and Charges filed on December 17, 2012 (the "Notice") by WFB. WFB's secured claim is provided for in Class 4 in the debtors' plan confirmed by order entered August 15, 2012 (Dkt. 36) (the "Confirmed Plan"). However, as the parties agree, Rule 3002.1(e) is only applicable to claims that are provided for under 11 U.S.C. § 1322(b)(5) (curing of defaults within a reasonable time and maintenance of ongoing payments while the case is pending). Here, WFB's secured claim is provided for in Class 4 of the Confirmed Plan, which does not provide for the curing of any default. Therefore, as the parties agree, section 1322(b)(5) does not apply to WFB's claim. Accordingly, Rule 3002.1(e) does not apply, and the objection is dismissed.

Furthermore, WFB's supplemental opposition is sustained in part. While the Notice cannot be construed as one brought pursuant to Fed. R. Bankr. P. 3002.1, nothing in Rule 3002.1 prevents WFB from filing such a Notice. Rule 3002.1 only states when a Notice must be filed and served by the creditor. Rule 3002.1 does not prohibit the filing of a Notice when it is not required. However, when the Notice is not required by Rule 3002.1 but is filed anyway, it is informational only. Accordingly, the Notice does not invoke any of the procedural or substantive provisions of Rule 3002.1 - court determination of whether the amount "is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with § 1322(b)(5) of the Code," preclusion of creditor submissions, etc.

The court will issue a minute order.

34. [13-27338](#)-B-13 WINSLEY EGERTON MOTION TO CONFIRM PLAN
CAH-1 6-19-13 [[18](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed June 12, 2013 (Dkt. 13) will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

35. [13-20339](#)-B-13 CONRAD ELLERBY MOTION TO APPROVE LOAN
MET-5 MODIFICATION
7-4-13 [[71](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The debtor is authorized to incur debt on the terms set forth in the Loan Modification Agreement filed as Exhibit "A" to the motion (Dkt. 73).

The court will issue a minute order.

36. [13-20339](#)-B-13 CONRAD ELLERBY MOTION TO SELL
MET-6 7-4-13 [[77](#)]

Tentative Ruling: The motion is dismissed without prejudice.

As a motion for sale of real property to which the chapter 13 trustee has not given consent, this motion is governed by the requirements of Local Bankruptcy Rule 3015-1(i)(5). That rule requires the debtor to serve a motion for approval of a sale of property on "the trustee, those

creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1." LBR 3015-1(i)(5).

Bankruptcy Rule 2002(a)(2) requires service of a motion for a proposed use, sale, or lease of property of the estate other than in the ordinary course of business to be served on, inter alia, all creditors. The debtor's certificate of service (Dkt. 82) does not show that all creditors were served with the motion.

The court will issue a minute order.

37. [13-27439](#)-B-13 PAUL/MERLE URCIAGA
JPJ-1
OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[21](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 23, 2013, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

38. [13-27439](#)-B-13 PAUL/MERLE URCIAGA
JTN-1
MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
7-3-13 [[14](#)]

Tentative Ruling: The motion to value Wells Fargo Bank, N.A.'s collateral is continued to a final evidentiary hearing on October 11, 2013 at 2:00 p.m. before the Honorable David E. Russell in courtroom 32.

On or before October 4, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before October 4, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value Collateral of Wells Fargo Bank, N.A.. In addition to the tabs, the

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41. [13-27639](#)-B-13 TKEBUCHAVA MERI
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-23-13 [[35](#)]

Tentative Ruling: The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed June 18, 2013, is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 27, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

42. [11-33542](#)-B-13 DEAN GOLDER
EJS-2

MOTION TO MODIFY PLAN
7-2-13 [[33](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed July 2, 2013, is confirmed.

The court will issue a minute order.

43. [12-24742](#)-B-13 DANTE THOMAS
MHL-9

MOTION TO CONFIRM PLAN
6-23-13 [[151](#)]

Tentative Ruling: The chapter 13 trustee's opposition is overruled. The amended plan filed June 23, 2013, will be confirmed with the following modifications included in the order confirming the plan: 1.) The plan's payment provisions shall provide that the debtor has paid a total of \$6364.00 to the trustee through July 25, 2013; commencing August 25, 2013, the monthly plan payment shall be \$373.00 per month for the remainder of the plan term.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

44. [09-46943](#)-B-13 JEFFREY/CLAUDINE NELSON MOTION TO MODIFY PLAN
JT-5 6-27-13 [[57](#)]

Tentative Ruling: The chapter 13 trustee's opposition is overruled. The modified plan filed June 27, 2013, will be confirmed with the following modification to the plan's payment provisions: 1.) The debtors have paid a total of \$113,655.00 to the trustee as of July 25, 2013; and 2.) Commencing August 25, 2013, the plan payment shall be \$2376.00 per month for the remainder of the plan.

The court will issue a minute order.

45. [09-46943](#)-B-13 JEFFREY/CLAUDINE NELSON MOTION TO INCUR DEBT
JT-7 7-30-13 [[83](#)]

Tentative Ruling: The motion is granted. The debtors are authorized to incur new debt on the terms set forth in the motion.

The court will issue a minute order.

46. [11-41143](#)-B-13 HOPE MARTIN CONTINUED MOTION TO APPROVE
HDR-3 LOAN MODIFICATION
6-27-13 [[44](#)]

Tentative Ruling: The chapter 13 trustee's opposition is overruled. The debtor is authorized to incur debt on the terms set forth in the Home Affordable Modification Agreement filed as Exhibit "A" to the motion (Dkt. 47).

The court finds based on the supplemental evidence filed by the debtor on July 29, 2013 (Dkt. 53), consisting of a statement of her current income and expenses, that approval of the loan modification will not affect the feasibility of the debtor's confirmed chapter 13 plan.

The court will issue a minute order.

47. [11-24147](#)-B-13 BRYANT/PAULA WYATT MOTION TO MODIFY PLAN
PGM-4 7-3-13 [[87](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed on July 3, 2013, is confirmed.

The court will issue a minute order.

48. [12-41747](#)-B-13 TREVOR/DEANA SCHWEITZER MOTION TO MODIFY PLAN
SJS-3 6-24-13 [[50](#)]

Tentative Ruling: The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed June 24, 2013, is denied.

The court will issue a minute order.

49. [13-25147](#)-B-13 MATTHEW/MAYRA SPINKS CONTINUED OBJECTION TO
JPJ-1 CONFIRMATION OF PLAN BY JAN P.
JOHNSON AND/OR MOTION TO
DISMISS CASE
5-30-13 [[32](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 23, 2013, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

50. [10-40349](#)-B-13 CLYDE/VICTORIA HAGOOD MOTION FOR CONSENT TO ENTER
CJO-1 INTO LOAN MODIFICATION
AGREEMENT
7-19-13 [[35](#)]

Tentative Ruling: The motion is dismissed without prejudice.

The movant, JPMorgan Chase Bank, N.A. ("Chase") requests an order allowing the debtors to enter into a loan modification agreement with Chase. However, Chase does not have prudential standing to bring this motion. 11 U.S.C. § 364, entitled "Obtaining Credit," at subsection (c), authorizes "the trustee" to obtain secured credit, subject to certain requirements. Section 364(c) only permits the trustee, and not any "interested party," to obtain credit. This court interprets 11 U.S.C. § 1303 to mean that the chapter 13 trustee and the chapter 13 debtor concurrently hold the powers granted to a trustee in Chapter 3 of Title 11, made applicable to cases in Chapter 13 by 11 U.S.C. § 103(a). The court reaches this conclusion because section 1303 enumerates certain powers in 11 U.S.C. § 363 as being held by the chapter 13 debtor, "exclusive of the trustee." The court construes that language to mean that the other powers granted to a trustee in Chapter 3 of Title 11 are held concurrently by the chapter 13 trustee and the chapter 13 debtor. See also, Keith M. Lundin & William H. Brown, Chapter 13 Bankruptcy, 4th Edition, § 92.1, at ¶ 3 [preconfirmation debt] and § 262.1, at ¶ 1 [postconfirmation debt], Sec. Rev. June 9, 2004, www.Ch13online.com. Accordingly, the chapter 13 trustee or the debtor has standing to bring

this motion, but creditor Chase does not. Chase has cited no authority supporting its standing to bring this motion. LBR 9014-1(d)(5).

The court will issue a minute order.

51. [13-26752](#)-B-13 NORMAN/JANET WILL
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[46](#)]

WITHDRAWN BY M.P.

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is removed from the calendar. The trustee withdrew the objection on July 24, 2013 (Dkt. 49).

52. [13-29152](#)-B-13 AIDA DELA CRUZ
MWL-1

MOTION TO AVOID LIEN OF J.P.
MORGAN CHASE N.A.
7-24-13 [[17](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The motion is dismissed without prejudice.

The debtor seeks to value real property for the purpose of fixing the allowed secured claim of JPMorgan Chase Bank, N.A. ("Chase"). The debtor did not properly serve Chase, however. Federal Rule of Bankruptcy Procedure 7004(h) provides that service of a contested matter on insured depository institution is accomplished by "certified mail addressed to an officer of the institution" unless any of the conditions under Bankruptcy Rule 7004(h)(1)-(3) apply. The debtor's certificate of service (Dkt. 20) does not show that Chase was served via certified mail to the attention of an officer, and there is no evidence that any of the exceptions under Bankruptcy Rule 7004(h)(1)-(3) apply.

The court will issue a minute order.

53. [11-23553](#)-B-13 ARTHUR/LADANA LUELLEN
SAC-9

MOTION TO APPROVE LOAN
MODIFICATION
7-16-13 [[141](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The debtors are authorized to incur credit on the terms set forth in the Loan Modification Agreement filed as Exhibit "A" to the motion (Dkt. 144).

The court will issue a minute order.

54. [11-42154](#)-B-13 KENNY/DARLENE RUPRECHT MOTION TO MODIFY PLAN
SDB-2 6-24-13 [[44](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed June 24, 2013, is confirmed.

The court will issue a minute order.

55. [13-27958](#)-B-13 PENNY PARKER OBJECTION TO CONFIRMATION OF
JPJ-1 PLAN BY JAN P. JOHNSON
7-25-13 [[31](#)]

Tentative Ruling: The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed June 12, 2013, is denied.

The court will issue a minute order.

56. [13-28458](#)-B-13 CHRISTOPHER/GUADALUPE MOTION TO VALUE COLLATERAL OF
CK-1 NASH CARRINGTON MORTGAGE SERVICE
7-10-13 [[8](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$182,000.00 of Carrington Mortgage Services, LLC's ("Carrington") claim in this case secured by the second deed of trust on real property located at 400 Buckeye Terrace, Redding, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$182,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Carrington with a balance of approximately \$320,255.00. Thus, the value of the collateral available to Carrington on its claim based on the first deed of trust is \$182,000.00.

The court will issue a minute order.

57. [13-27759](#)-B-13 MICHAEL/CHERYL BROKER
CAH-1

MOTION TO VALUE COLLATERAL OF
J.P. MORGAN CHASE BANK, N.A.
7-9-13 [[18](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of JPMorgan Chase Bank, N.A.'s ("Chase") claim in this case secured by the second deed of trust on real property located at 5338 Swindon Road, Rocklin, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$285,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citimortgage, Inc. with a balance of approximately \$305,000.00. Thus, the value of the collateral available to Chase on its second deed of trust is \$0.00.

The court will issue a minute order.

58. [13-27759](#)-B-13 MICHAEL/CHERYL BROKER
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[23](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 19, 2013, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

59. [12-41261](#)-B-13 GRANT/DIANA FLOWERS
MAS-4

MOTION TO CONFIRM PLAN
6-25-13 [[94](#)]

Tentative Ruling: The chapter 13 trustee's opposition is sustained. The opposition filed by Wells Fargo Bank, N.A. ("Wells Fargo") is sustained in part. The opposition filed by creditor Glenda Cibula ("Cibula") is sustained in part. The motion to confirm the amended plan filed June 25, 2013, is denied. The trustee's countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtors file a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard

on the same calendar.

The trustee's opposition is sustained for the reasons set forth therein.

Wells Fargo's opposition is sustained under 11 U.S.C. § 1325(a)(6) and to the extent that Wells Fargo objects to the debtors' proposed plan treatment because the court has yet to issue an order valuing Wells Fargo's collateral. Nothing in this ruling shall be construed as a finding regarding the value of Wells Fargo's collateral.

Cibula's opposition is sustained to the extent that she objects that the chapter 13 plan does not propose to treat her secured claim to the extent that it is secured by personal property consisting of certain viatical settlements described in her opposition and in the loan documents attached to her filed claim. Nothing in this ruling shall be construed as a finding regarding the value of Cibula's collateral.

The court will issue a minute order.

60. [12-41261](#)-B-13 GRANT/DIANA FLOWERS
MAS-5

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
6-25-13 [[101](#)]

Tentative Ruling: The motion to value Wells Fargo Bank, N.A.'s collateral is continued to a final evidentiary hearing on October 9, 2013 at 2:00 p.m. before the Honorable David E. Russell in courtroom 32.

On or before October 2, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before October 2, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value Collateral of Wells Fargo Bank, N.A.. In addition to the tabs, the hearing exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [www.tabbies.com] - debtors' stock number 58093 and creditors' stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the hearing one additional and identical copy of the party's lodged binder(s) for use by the court - to remain at the witness stand during the receipt of testimony.

The court will issue a minute order.

61. [12-41261](#)-B-13 GRANT/DIANA FLOWERS
MAS-6

MOTION TO VALUE COLLATERAL OF
GLENDA L. WALSH
7-11-13 [[114](#)]

Tentative Ruling: The opposition filed by secured creditor Glenda Cibula is sustained in part. The motion is denied without prejudice.

A motion to value collateral pursuant to 11 U.S.C. § 506(a) must value all of the property which secures the creditor's claim. In this case, the debtors have not ascribed any value to the viatical settlements described in the Security and Pledge Agreement filed as Exhibit "C" to the creditor's opposition (Dkt. 136 at 10). IN fact, the debtors' motion does not address the existence of the viatical settlements at all.

Nothing in this ruling shall be construed as a finding regarding the value of the creditor's collateral. The court declines to reach that issue at this time.

The court will issue a minute order.

62. [13-25063](#)-B-13 THOMAS/DEBORAH ROSS
DRE-1

MOTION TO VALUE COLLATERAL OF
GREEN TREE SERVICING, LLC
5-20-13 [[23](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Green Tree Servicing, LLC's ("Green Tree") claim in this case secured by the second deed of trust on real property located at 8536 Stratus Drive, Orangevale, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$240,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Green Tree with a balance of approximately \$298,000.00. Thus, the value of the collateral available to Green Tree on its second deed of trust is \$0.00.

The court will issue a minute order.

63. [13-25063](#)-B-13 THOMAS/DEBORAH ROSS
DRE-2

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
5-20-13 [[18](#)]

Tentative Ruling: The motion to value Wells Fargo Bank, N.A.'s collateral is continued to a final evidentiary hearing on October 11, 2013 at 2:00 p.m. before the Honorable David E. Russell in courtroom 32.

On or before October 4, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a

general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before October 4, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value Collateral of Wells Fargo Bank, N.A.. In addition to the tabs, the hearing exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [www.tabbies.com] - debtors' stock number 58093 and creditors' stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the hearing one additional and identical copy of the party's lodged binder(s) for use by the court - to remain at the witness stand during the receipt of testimony.

The court will issue a minute order.

64. [13-25063](#)-B-13 THOMAS/DEBORAH ROSS
JPJ-1

CONTINUED AMENDED OBJECTION TO
CONFIRMATION OF PLAN BY JAN P.
JOHNSON AND/OR AMENDED MOTION
TO DISMISS CASE
7-2-13 [[48](#)]

Tentative Ruling: This matter is continued to October 22, 2013 at 9:32 a.m., to be heard after the evidentiary hearing on the debtors' motion to value the collateral of Wells Fargo Bank, N.A.

65. [13-25063](#)-B-13 THOMAS/DEBORAH ROSS
SW-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY WELLS
FARGO BANK, N.A.
5-7-13 [[15](#)]

Tentative Ruling: This matter is continued to October 22, 2013, at 9:32 a.m. to be heard after the evidentiary hearing on the debtors' motion to value the collateral of Wells Fargo Bank, N.A.

66. [13-25063](#)-B-13 THOMAS/DEBORAH ROSS
SW-2

MOTION FOR ADEQUATE PROTECTION
7-25-13 [[55](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

67. [13-22770](#)-B-13 NEVILLE/KERRY BUYENSE
JT-3

MOTION TO CONFIRM PLAN
7-1-13 [[47](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted and the amended plan filed July 1, 2013, will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

68. [11-42471](#)-B-13 NANCY BANKS
BSJ-6

MOTION TO MODIFY PLAN
7-2-13 [[76](#)]

Tentative Ruling: The chapter 13 trustee's opposition is sustained. The motion to confirm the modified plan filed July 1, 2013, is denied.

The court will issue a minute order.

69. [13-28072](#)-B-13 ALAN LUDINGTON
ASW-1

OBJECTION TO CONFIRMATION OF
PLAN BY BANK OF AMERICA, N.A.
7-10-13 [[16](#)]

Tentative Ruling: The creditor Bank of America, N.A.'s objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

70. [13-27674](#)-B-13 STEVEN/LINDA MAYNERICH
JT-1

MOTION TO VALUE COLLATERAL OF
JPMORGAN CHASE BANK, N.A.
7-3-13 [[14](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Citibank, N.A.'s ("Citibank") claim secured by the second deed of trust on real property located at 773

Roscommon Drive, Vacaville, California ("Property") is a secured claim in this case, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$300,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by JPMorgan Chase Bank, N.A. with a balance of approximately \$470,862.00. Thus, the value of the collateral available to Citibank on its second deed of trust is \$0.00.

The court will issue a minute order.

71. [11-45775](#)-B-13 LORI REESE-BROWN AND MOTION TO MODIFY PLAN
LLL-9 DARRYL BROWN 6-28-13 [[187](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the number of matters on this morning's calendars (194 matters), the court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed July 3, 2013 (Dkt. 197) is confirmed.

The court will issue a minute order.

72. [11-26978](#)-B-13 STEVEN/DIXIE COOKSEY CONTINUED MOTION TO MODIFY PLAN
BSJ-2 5-29-13 [[62](#)]

Tentative Ruling: This matter originally came before this court on July 16, 2013, but was continued twice. The trustee filed written opposition (Dkt. 68).

The trustee's opposition is overruled. The motion is granted, and the modified plan filed May 29, 2013 (Dkt. 61) will be confirmed with the following modification, pursuant to the stipulation filed on August 2, 2013 (Dkt. 77): The Placer County Tax Collector secured claim of \$1,440.56 is provided for in Class 2 Sub A with 18% per annum interest and a monthly dividend commencing in month 27 (June 2013) of \$54.40 per month for months 27 through 60 of the plan.

The court will issue a minute order granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the modified plan.

73. [13-25079](#)-B-13 MEGAN/ADAM ENOS
MRL-1

MOTION TO CONFIRM PLAN
6-25-13 [[30](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's opposition is sustained. The motion to confirm the amended plan filed June 24, 2013 (Dkt. 29), is denied. The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

74. [13-25579](#)-B-13 ROBERT SLATON
WW-1

OBJECTION TO CONFIRMATION OF
PLAN BY HARLEY-DAVIDSON
6-28-13 [[38](#)]

Disposition Without Oral Argument: This matter is removed from the calendar.

This matter is improperly calendared as a stand alone objection to confirmation. It is actually opposition to the motion to confirm (D.C.N. WW-1) that appears elsewhere on this calendar (matter number 75). The court will address the substance of the opposition with its ruling on the motion.

75. [13-25579](#)-B-13 ROBERT SLATON
WW-1

MOTION TO CONFIRM PLAN
6-24-13 [[32](#)]

Tentative Ruling: The creditor Harley-Davidson's opposition and the trustee's opposition are sustained in part. Harley-Davidson's request that the case be dismissed is denied without prejudice. The motion to confirm the amended plan filed June 24, 2013 (Dkt. 34) is denied.

Harley-Davidson's first and second objections are sustained. Harley-Davidson's third objection, asserting that the proper interest rate on its claim is 10%, is overruled without prejudice. Under Till et ux. v. SCS Credit Corp., 541 U.S. 465, 124 S.Ct. 1951, 1955-56, 158 L.Ed.2d 787 (2004), the court conducts a present value calculation as of the effective date of the plan by starting with the risk free rate and adjusting upward for appropriate risk factors. Till places the burden of establishing the necessary upward adjustment on the creditor. Till, 541 U.S. at 479. The contract rate of interest is irrelevant. Till specifically rejected the contract rate as the appropriate present value determinant. Till, 541 U.S. at 477-478. Here, the risk free rate (the prime rate as of August 12, 2013) is 3.25%. The debtor proposes a rate of 3.5%, including an upward adjustment of 0.25%. Harley-Davidson argues

for a 10% rate, including an upward adjustment of 6.75%. Harley-Davidson has presented no evidence justifying any upward adjustment of that magnitude.

Harley-Davidson's request that the case be dismissed is denied without prejudice because it fails to cite the legal authority upon which it relies for the relief it seeks [LBR 9014-1(d)(5)] and analyze the facts of the case within the context of any legal authority.

The court acknowledges that Debtor asserts in a written reply that he is current in plan payments and has provided as an exhibit a "Financial Summary." However, no declaration has been provided in support and the debtor has not given the court any information about this document other than it exists.

The court will issue a minute order.

76. [13-25579](#)-B-13 ROBERT SLATON
WW-1

COUNTER MOTION TO DISMISS CASE
7-30-13 [[53](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

77. [13-27079](#)-B-13 KARA NELSON
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON
7-18-13 [[27](#)]

Tentative Ruling: The trustee's objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed June 6, 2013 (Dkt. 12), is denied.

The court will issue a minute order.

78. [13-27079](#)-B-13 KARA NELSON
MRG-1

OBJECTION TO CONFIRMATION OF
PLAN BY DEUTSCHE BANK NATIONAL
TRUST COMPANY
6-28-13 [[22](#)]

Tentative Ruling: The creditor Deutsche Bank National Trust Company, as Trustee of the IndyMac INDX Mortgage Loan Trust 2006-AR15, Mortgage Pass-Through Certificates, Series 2006-AR15 under the Pooling and Servicing Agreement dated May 1, 2006's ("Deutsche") objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

Deutsche's objections are sustained. Confirmation of the initial plan filed June 6, 2013 (Dkt. 12), is denied.

The court will issue a minute order.

79. [13-27279](#)-B-13 RONALD/JULIE COSTER
LRR-1

MOTION TO VALUE COLLATERAL OF
BENEFICIAL MEMBER HSBC GROUP
7-1-13 [[17](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Beneficial member HSBC Group ("HSBC") claim secured by the second deed of trust on real property located at 676 Athy Ct., Galt, California ("Property") is a secured claim in this case, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$211,177.00 on the date of the petition. The Property is encumbered by a first deed of trust held by HSBC with a balance of approximately \$324,126.00. Thus, the value of the collateral available to HSBC on its second deed of trust is \$0.00.

The court will issue a minute order.

80. [13-27279](#)-B-13 RONALD/JULIE COSTER
LRR-2

MOTION TO VALUE COLLATERAL OF
BENEFICIAL MEMBER HSBC GROUP
7-1-13 [[21](#)]

Tentative Ruling: This motion is unopposed. In this instance, the court issues the following abbreviated tentative ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Beneficial member HSBC Group ("HSBC") claim secured by the third deed of trust on real property located at 676 Athy Ct., Galt, California ("Property") is a secured claim in this case, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$211,177.00 on the date of the petition. The Property is encumbered by a first deed of trust held by HSBC with a balance of approximately \$324,126.00. Thus, the value of the collateral available to HSBC on its third deed of trust is \$0.00.

The court will issue a minute order.

81. [12-40480](#)-B-13 JUSTIN/JESSICA ROBERTS MOTION TO CONFIRM PLAN
JT-2 6-25-13 [[48](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is continued to August 27, 2013 at 9:32 a.m., to be heard after Debtors' objection to claim of Dave Moeller.

82. [12-40480](#)-B-13 JUSTIN/JESSICA ROBERTS COUNTER MOTION TO DISMISS CASE
JT-2 7-23-13 [[61](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is continued to August 27, 2013 at 9:32 a.m., to be heard after Debtors' objection to claim of Dave Moeller.

83. [13-26480](#)-B-13 THOMAS DEARAGONAISE AND OBJECTION TO DEBTORS' CLAIM OF
JPJ-2 EMANUELA EXEMPTIONS
7-12-13 [[22](#)]

Tentative Ruling: The chapter 13 trustee's objection is sustained and the debtors' claim of exemption in household goods under Colorado Revised Statutes § 13-54-102(1)(e) is disallowed. The amount exempted exceeds the aggregate amount allowed under Colorado Revised Statutes § 13-54-102(1)(e).

The court will issue a minute order.

84. [13-28080](#)-B-13 LINDA YANG OBJECTION TO CONFIRMATION OF
ASW-1 PLAN BY JPMORGAN CHASE BANK,
N.A.
7-25-13 [[21](#)]

Disposition Without Oral Argument: The objection is removed from the calendar.

The movant JPMorgan Chase Bank, N.A. filed a withdrawal of its objection on August 9, 2013 (Dkt. 27).

85. [13-26681](#)-B-13 JOSE/AIDA ABELLERA
SBT-1

MOTION TO CONFIRM PLAN
6-21-13 [[20](#)]

Tentative Ruling: The trustee's opposition is sustained. The motion to confirm the amended plan filed June 21, 2013 (Dkt. 18), is denied.

The court will issue a minute order.

86. [13-26681](#)-B-13 JOSE/AIDA ABELLERA
SBT-1

COUNTER MOTION TO DISMISS CASE
8-5-13 [[41](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

87. [13-27583](#)-B-13 ANDREW LUU
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON
7-18-13 [[17](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. On July 23, 2013, the debtor filed an amended plan (Dkt. 28) and motion to confirm (Dkt. 25). The amended plan supersedes the plan to which the trustee's objections are directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

88. [13-28084](#)-B-13 RYAN/MARY WILLIAMS
HLG-1

MOTION TO VALUE COLLATERAL OF
PNC BANK
7-11-13 [[16](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11

U.S.C. § 506(a), is granted. \$0.00 of PNC Bank's claim secured by the second deed of trust on real property located at 6152 Rutland Drive, Carmichael, California ("Property") is a secured claim in this case, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$225,033.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Ocwen Loan Servicing with a balance of approximately \$265,031.00. Thus, the value of the collateral available to PNC Bank on its second deed of trust is \$0.00.

The court will issue a minute order.

89. [10-29085](#)-B-13 GREGORY/SALLY STONE
MET-3

MOTION TO SELL
6-29-13 [[71](#)]

Tentative Ruling: The trustee's opposition is overruled. The motion is dismissed without prejudice.

The motion is not ripe, and therefore the court lacks jurisdiction over the matter. The debtors seek court approval to short sell real property located at 239 Fleming Avenue, Vallejo, California ("Property") to Sean Thomas for \$255,000.00. In this case, Nationstar Mortgage holds a senior lien against the Property in the amount of \$358,138.00 and PNC Bank holds a junior lien in the amount of \$109,289.00. The debtors have not provided proof that both lienholders consent to the proposed sale.

The absence of an actual compromise or sale for the court to approve means that the court lacks jurisdiction over the matter because the motion lacks justiciability. The justiciability doctrine concerns "whether the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." Warth v. Seldin, 422 U.S. 490, 498, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975). Under Article III of the United States Constitution, federal courts only hold jurisdiction to decide cases and controversies. With no finalized, actual compromise or sale agreement to which the lienholders agree, no case or controversy within the meaning of Article III exists.

The court acknowledges that the debtors filed a letter from Nationstar Mortgage (Dkt. 75 at 2); however, according to this letter the approval is contingent upon the closing occurring on or before July 30, 2013. It is now August 13, 2013. There is no evidence before this court that a sale closed. Moreover, there is no evidence that the junior lienholder, PNC Bank, consents to the sale.

The trustee's opposition is overruled. Debtors have provided the requested information (Dkt. 81 at 2).

The court will issue a minute order.

90. [13-27485](#)-B-13 JOHN/JENNIFER REED
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[20](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. On July 23, 2013, the debtors filed an amended plan (Dkt. 23) and motion to confirm (Dkt. 24). The amended plan supersedes the plan to which the trustee's objections are directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

91. [13-27486](#)-B-13 DENNIS TSURUMOTO
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON
7-18-13 [[33](#)]

Tentative Ruling: The trustee's objection is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection is sustained. Confirmation of the initial plan filed June 10, 2013 (Dkt. 12), is denied.

The court will issue a minute order.

92. [13-27587](#)-B-13 CHARI GOLDSTEIN
APN-1

OBJECTION TO CONFIRMATION OF
PLAN BY POINTE BENICIA
CONDOMINIUM ASSOCIATION
7-18-13 [[18](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The creditor Pointe Benicia Condominium Association's ("Creditor") objections are dismissed.

The Creditor's objections are moot. On August 10, 2013, the debtor filed an amended plan (Dkt. 24) and motion to confirm (Dkt. 25). The amended plan supersedes the plan to which the Creditor's objections are directed. 11 U.S.C. § 1323(b).

The court will issue a minute order.

93. [13-27587](#)-B-13 CHARI GOLDSTEIN
JPJ-1

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[14](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. On August 10, 2013, the debtor filed an amended plan (Dkt. 24) and motion to confirm (Dkt. 25). The amended plan supersedes the plan to which the trustee's objections are directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

94. [13-26689](#)-B-13 KAMAL SHEHADEH
CAH-5

MOTION TO CONFIRM PLAN
7-2-13 [[38](#)]

Tentative Ruling: The Debtor's motion to confirm the amended plan filed July 2, 2013 (Dkt. 74) is removed from the calendar. The trustee's opposition, and the creditor American Enterprise Bank's opposition are dismissed.

The debtor filed a notice of withdrawal on August 7, 2013 (Dkt. 74). The trustee's opposition and American Enterprise Bank's opposition are therefore moot.

The court will issue a minute order.

95. [13-26689](#)-B-13 KAMAL SHEHADEH
CAH-5

COUNTER MOTION TO DISMISS CASE
7-23-13 [[57](#)]

Tentative Ruling: The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 27, 2013, the debtors files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

96. [11-44792](#)-B-13 CELESTE ROBERTS
CAH-5
OBJECTION TO NOTICE OF MORTGAGE
PAYMENT CHANGE
6-28-13 [[71](#)]

Tentative Ruling: None.

97. [11-44792](#)-B-13 CELESTE ROBERTS
CAH-6
MOTION TO MODIFY PLAN
6-28-13 [[76](#)]

Tentative Ruling: This motion is unopposed. In this instance, the court issues the following abbreviated tentative ruling.

The motion is granted, and the modified plan filed June 28, 2013 (Dkt. 80) is confirmed.

The court will issue a minute order.

98. [13-27895](#)-B-13 JACK/LINDA GANAS
JPJ-1
OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-23-13 [[16](#)]

Tentative Ruling: The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed June 10, 2013 (Dkt. 5), is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 27, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

99. [13-27899](#)-B-13 MONICA CLARK
EWV-25
MOTION TO VALUE COLLATERAL OF
ALLIANT CREDIT UNION
7-16-13 [[16](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$13,526.00 of Alliant Credit Union's claim secured by a 2007 Chevrolet Express van conversion (the "Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

Except as so ordered, the motion is denied.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$13,526.00 on the date of the petition.

The court will issue a minute order.

100. [13-27899](#)-B-13 MONICA CLARK MOTION TO VALUE COLLATERAL OF
EWV-26 GMAC MORTGAGE, LLC
7-16-13 [[20](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of GMAC Mortgage, LLC's ("GMAC") claim secured by the second deed of trust on real property located at 101 Garrido Court, Vallejo, California ("Property") is a secured claim in this case, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$253,748.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Ally Bank with a balance of approximately \$286,896.00. Thus, the value of the collateral available to GMAC on its second deed of trust is \$0.00.

The court will issue a minute order.

101. [10-44131](#)-B-13 RAPHAEL METZGER AND MOTION TO COMPROMISE
[11-2530](#) MELANIE MEDINA-METZGER LDD-9 CONTROVERSY/APPROVE SETTLEMENT
METZGER ET AL V. BAYVIEW LOAN AGREEMENT WITH BAYVIEW LOAN
SERVICING, LLC SERVICING, LLC
7-22-13 [[108](#)]
WITHDRAWN BY M.P.

Disposition Without Oral Argument: The motion is removed from the calendar.

The debtors filed a notice of withdrawal of the motion on July 30, 2013 (Dkt. 121).

102. [13-27674](#)-B-13 STEVEN/LINDA MAYNERICH OBJECTION TO CONFIRMATION OF
JPJ-1 PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-18-13 [[19](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. On July 26,

2013, the debtors filed an amended plan (Dkt. 28) and motion to confirm (Dkt. 25). The amended plan supersedes the plan to which the trustee's objections are directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.